



MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CHULA VISTA
AND

LOCAL 2180
INTERNATIONAL ASSOCIATION
OF
FIRE FIGHTERS
AFL - CIO

July 1, 1998- June 30, 2005

MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS AND
CONDITIONS OF EMPLOYMENT BETWEEN THE CITY OF CHULA VISTA AND LOCAL 2180,
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO, FISCAL YEARS 1998-2005.

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1.01 PREAMBLE

This Memorandum of Understanding (MOU) is entered into by the City of Chula Vista, hereinafter referred to as "City," and the International Association of Fire Fighters, hereinafter referred to as "Local 2180," as a result of meeting and conferring in good faith concerning the wages, hours and other terms and conditions of employment, pursuant to the Employer-Employee Relations Policy of the City of Chula Vista and to the California Government Code Section 3500 et. seq. known as the Meyers-Milias-Brown Act.

Local 2180 agrees to recommend ratification of this MOU to its membership. Upon Local 2180's ratification, the MOU will be jointly recommended to the City Council for Council ratification.

1.02 RECOGNITION

The City recognizes Local 2180 as the certified representative for safety employees in the City of Chula Vista who are employed in the classifications of Fire Fighter, Fire Engineer and Fire Captain, hereinafter referred to as "represented employees" or "employees."

1.03 CITY RIGHTS

Nothing contained herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of legislative or managerial policy.

I. The exclusive rights of the City shall include, but not be limited to, the right to:

Establish, plan for, and direct the work force toward the organizational goals of the City Government.

Determine the organization, and the merits, necessity and level of activity or service provided to the public.

Determine the City budget.

Establish, regulate and administer a merit or civil service system which provides for all types of personnel transactions, including, but not limited to, determining the procedures and standards for the hiring, promotion, transfer, assignment, lay off, retention, and classification of positions in accordance with the City Charter, Civil Service Rules, and established personnel practices.

Discipline or discharge employees.

Determine the methods, means, numbers and kinds of personnel, and the job or position content required to accomplish the objectives and goals of the City.

Effect a reduction in authorized positions.

Take actions necessary to carry out the mission of the City in emergencies and in other situations of unusual or temporary circumstances.

Continue to exercise efficient and productive management practices consistent with Federal and State laws and in compliance with the City Charter and City ordinances. In exercising these rights the City shall comply with all applicable provisions of this agreement.

The establishment or exercise of City rights shall not be subject to meeting and conferring; provided, however, Local 2180 shall not be precluded from meeting and conferring with representatives of the City when the consequences of decisions on matters of City rights directly affect wages, hours, and other terms and conditions of employment.

- II. Fitness- The parties agree that physical and mental fitness of City employees are reasonable requirements to perform the duties of the job and instill public confidence. Recognizing these important factors, the parties agree that during the term of this Agreement, the City, with reasonable cause, may require medical and psychological assessments of employees; provided the City pays and provides time off without loss of pay for such assessments. All such assessments shall be done by appropriately qualified health care professionals.

Any treatment or remedial action shall be the full responsibility of the employee, except as otherwise provided by law or as may be provided through the Employee Assistance Program for City employees or the Substance Abuse Policy.

1.04 LOCAL 2180 RIGHTS

- I. Authorized representatives of Local 2180 shall be allowed reasonable access to represented employees at their work locations during working hours for the purpose of consulting with employees regarding the employer-employee relationship, provided that: (1) the work operation and service to the public are not unduly impaired, and (2) the authorized representatives shall have given advance notice to the Fire Chief or his/her designated representative when contacting represented employees during the duty period of the employees. The Fire Chief or his/her designee shall determine the appropriate time for such access.
- II. Local 2180 officers and members of its Board shall be granted use of City facilities for meetings composed of such officers or Board members, provided space can be made available without interfering with the City needs, and provided such meetings are conducted at no cost to the City.
- III. Up to four (4) representatives of Local 2180 will be authorized to utilize on-duty time as necessary to participate in negotiating meetings mutually scheduled by the City and Local 2180.
- IV. A reasonable amount of space shall continue to be provided to Local 2180 on City bulletin boards for legitimate communications with represented employees.

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- V. The City will continue to provide biweekly payroll dues deductions as authorized by unit employees to Local 2180, and Local 2180 will pay the City 10C per member per pay period for the actual costs incurred for dues deduction on behalf of Local 2180. The City will remit the deductions to Local 2180 in a timely manner and will provide Local 2180 a biweekly computer print-out of its members' dues deductions.
 - VI. The City shall provide distribution of the following official documents to the President of Local 2180:

One copy each of: Agendas and Minutes of all City Council meetings, Civil Service Commission meetings, open Council Conferences, and Safety Committee meetings; the Preliminary City Operating Budget; the Final City Operating Budget; the Capital Improvement Program (CIP) Budget; and the Salary Schedule.

1.05 EMPLOYEE RIGHTS

- I. Employees of the City shall have the right to:
 - A. Form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation in matters of employer-employee relations.
 - B. Refuse to join or participate in the activities of employee organizations.
 - C. Represent themselves individually in their employee relations with the City.
- II. Employee Personnel Records:
 - A. Represented employees shall be entitled to see the contents of their personnel records. Availability of these records to the employee will be subject to the normal business hours affecting the position or office which has routine custody of these records.
 - B. In Civil Service promotional oral boards used in establishing certification lists for Fire Engineer or Fire Captain, the City agrees not to use documents from employee jackets or other personnel records if such documents or records are more than three years old (unless they are presented by the candidate).
- III. Representation by Local:

Represented employees required to meet with any supervisor(s) in which the purpose or part of the purpose is to discipline the employee, or to discuss the likelihood of future disciplinary action, shall have the right to have a shop steward in attendance if any written record of the discussion will be made by the supervisor(s) or other management personnel. Such meeting shall be preceded by at least 24-hour notification of the time and purpose of the meeting to the employee, provided employees may waive any advance notification if they so choose. A shop

steward would not be permitted in meetings for Performance Reports (except ones with an overall rating of Unsatisfactory), reviews or selections or promotion interviews.

2.01 WAGES

- I. A. Salary Increases - Base wages (i.e. the salaries for Steps 1-E) shall increase as follows at the beginning of the first pay period, which begins on or after the dates below.
1. January 1, 1999 3%
 2. January 1, 2000 4%
 3. January 1, 2001 9%
 4. January 1, 2002 3%
 5. January 1, 2003 4%
 6. January 1, 2004 4%
 7. January 1, 2005 4%
- B. At the beginning of the first pay period which begins on or after January 1, 2005, Fire Engineers will receive an additional wage increase as required to set their E step salary 15% above that of Firefighter; Fire Captains will receive an additional wage increase as required to set their E step salary 20% above that of Fire Engineer.
- II. Merit (Step) Increases - Each employee shall normally be required to complete the following specified number of months of continuous paid service at each step of the salary schedule prior to advancing to the next step of the schedule. Step increases may be delayed by the Fire Chief in cases of sub-standard performance. Only permanent status employees may appeal that decision through the Civil Service Commission. In cases of exceptional performance, an employee may be granted an early step increase or double step increase based on the recommendation by the Fire Chief and the approval of the Director of Human Resources, City Manager, and Civil Service Commission. Exceptional merit increase recommendations may be initiated by the employee's immediate supervisor. The effective date of exceptional merit increases shall be the beginning of the pay period following approval.

Months of service normally required for each step shall be:

<u>Months</u>		<u>Step</u>
6 months	In	1
6 months	In	2
6 months	In	A
6 months	in	B
12 months	in	C
12 months	in	D
Thereafter	in	E

The classification of Fire Fighter shall be subject to a seven (7) step salary range. Step "1" shall be 10% less than "A" Step and Step "2" shall be 5% less than "A" Step. The normal hire rate shall be Step "1" provided, however, that an exceptionally well-qualified candidate may be hired within the established range based upon the recommendation of the appointing authority and approval by the City Manager. New employees with a minimum of one year of full-time paid firefighter experience or an AA/AS (or higher) degree in Fire Science shall be hired at Step A or higher.

- III. Effective Dates - All other payroll and wage changes, such as regular merit increases, shall be made effective at the beginning of the regular biweekly payroll period closest to the employee's actual qualifying date.
- IV. Distribution of Paychecks - Paychecks shall be distributed only on regular biweekly paydays. However, in an emergency, employees may receive their check on a day other than a regular payday if a memo is directed from the Department Head to the Finance Officer justifying the request.
- V. Vacation Pay In Advance - All classifications represented by Local 2180 may receive in advance a maximum of two weeks earned vacation pay. Vacation pay in advance will be made on a regular payday if the employee notifies the Finance Department at least three working days prior to the payday on which payment is desired. Pay in advance is not available to employees with Direct Deposit.
- VI. Rate of Pay Following Promotion - When a represented employee is promoted, the new rate of pay will be the lowest step in the new salary range which will result in the employee receiving at least 5% more than the actual rate in the old classification.

2.02 UNIFORMS

- I. The City shall during the term of this memorandum provide new unit employees with the following initial issue of new OSHA approved clothing: three pairs of pants, one coverall, one brush jacket, one pair of brush pants, two pairs of boots, turn-out gear and one Class A Uniform.
- II. If said protective clothing, as defined in I above, is damaged, destroyed, or worn out in the line of duty, said clothing shall be replaced or repaired at the City's expense. It is the intent of this section to allow discretionary final authority to the Fire Chief to determine whether protective clothing so damaged shall be replaced or repaired.
- III. The City will furnish, repair, or replace, as determined by the Fire Chief, any required regulation uniforms (except shirts) for represented Fire Prevention and Training personnel.
- IV. All represented employees shall receive \$200 per calendar year for the cleaning and maintenance of uniforms. Payment will be made the first payday following November 1 annually, and will be prorated for individuals not employed for the entire calendar year.

2.03 MILEAGE REIMBURSEMENT

- I. Employees in this unit shall be subject to the City's mileage reimbursement program when required to use their private automobiles for authorized City business: (Revised FY 97/98).
- II. Employees shall be eligible for mileage reimbursement at the reimbursement rate authorized by the IRS for the use of their private vehicles to travel from one work station to another work station when such travel results from a reassignment of work stations after reaching his/her normally assigned work site. The intent of this section is that as the IRS reimbursement rate changes, so shall the reimbursement rate for Local 2180 employees.
- III. For employees on Worker's Compensation, required travel to and from the examining doctor's office shall be paid by the City in accordance with California Labor Code, Chapter 2, Article II, Section 4600.

2.04 WORK PERIOD/DUTY CYCLE

- I. Fire Suppression - Members of represented classifications assigned to this division shall work on a 56-hour week, three platoon basis. The duty schedule shall include eight (8) 24-hour shifts (totaling 192 hours) in a twenty-four (24) day duty cycle. Each 24-hour shift will begin and end at 7:30 a.m.

The City has enacted the 7K exemption for Fire Suppression personnel as permitted under the Fair Labor Standards Act. This includes a 24-day work period which coincides with the 24-day duty cycle described in the previous paragraph.

- II. Fire Prevention/Training -Members of represented classifications assigned to these divisions shall work 40 hours per week.

The work period (week) for non-Suppression personnel is a fixed and regular recurring period of 168 consecutive hours (7 consecutive 24-hour periods). The work week for non-Suppression personnel begins at 12:01 a.m. on Friday morning and ends at 12:01 a.m. the following Friday morning.

2.05 OVERTIME

- I. Whenever employees are ordered, because of an emergency or in the interest of the efficiency of the department, to render overtime service as defined below, they shall be granted overtime pay at the rate of 1-1/2 times their Fair Labor Standards Act (FLSA) "regular rate," or compensatory time off at 1-1/2 times the overtime hours worked (subject to the Compensatory Time provisions in Section II below).
- A. Fire Suppression personnel will receive overtime pay or compensatory time off at time and 1/2 for hours worked in excess of 182 hours in a 24-day work period. Authorized paid time

off (e.g. vacation, compensatory time, and sick leave) will be counted as time worked for purposes of calculating overtime.

For Fire Suppression personnel, payment for overtime earned in a given 24-day work period will be made no later than with the pay warrant covering the biweekly pay period during which the work period ended.

B. Non-Suppression personnel will receive overtime pay or compensatory time off at time and 1/2 for hours worked in excess of 40 hours in a 7-day work period. Authorized paid time off (e.g. vacation, compensatory time, and sick leave) will be counted as time worked for purposes of calculating overtime for non-Suppression personnel.

For non-Suppression personnel, payment for overtime shall be made with the pay warrant covering the pay period wherein the overtime was earned.

- II. Compensatory Time - Compensation for overtime with compensatory time in lieu of overtime pay will be at the option of the supervisor and the department head, based on the employee's request while recognizing the overall staffing requirements of the department. Approval of such requests shall not be unreasonably withheld. A record of compensatory time earned and utilized shall be maintained on the biweekly pay records. Utilization of compensatory time will be subject to the same procedures as vacation leave requests except that requests for vacation leave will have priority over requests for compensatory leave. Employees shall be paid for any accumulated compensatory time unused as of June 30 of each fiscal year. Payment will be made during the month of July of each year, and will be computed based on the employee's base salary rate on June 15.
- III. Emergency Holdovers - Employees who are held over more than fifteen minutes beyond the scheduled termination of their work shift due to fire or other emergency call, shall be paid on a time and 1/2 basis after fifteen minutes to the nearest half hour for all such time worked. "Time worked" shall include officer's preparation of incident reports and such personal or equipment clean-up as is necessary and required by the Fire Chief.
- IV. Non-Emergency Holdovers - Employees required to remain on duty more than fifteen minutes beyond the scheduled termination of their shift for other than emergency calls shall be paid on a time and 1/2 basis after fifteen minutes to the nearest half hour for all such time worked. "Time worked" shall include such personal or equipment clean-up as is necessary and required by the Fire Chief, up to a maximum of 30 minutes of clean-up time.
- V. Callbacks - Employees who are called back to work before the scheduled start of their next regular shift, after having left their work site or at the conclusion of their prior scheduled shift, shall be paid for the actual overtime worked to the nearest half hour, with 2 hours being the minimum amount paid. The 2-hour minimum shall not, however, apply under any of the following situations:
 - (1) The employee is held over beyond the scheduled termination of his/her work shift (see Sections III and IV above).

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- (2) The employee returns to work within 2 hours of the start of his/her next regular shift.

The amount of overtime worked shall not include travel time from the employee's home (or other non-work location where he/she was notified of the callback) to the employee's work station or incident scene, whichever location the employee is required to report to first. Similarly, overtime shall not include travel time after the employee leaves his/her work station or incident scene, whichever location the employee reports to last.

VI. Except for emergencies, the order of callback for 24-hour shifts shall be as follows:

- (1) Callback shall be on a rotational basis by use of a chart maintained in the Shift Commander's Office.
- (2) Telephone and/or notification of callback can be made anytime, but if the top rotation individual cannot be reached, callback must be made by the Shift Commander or his/her designee between 0630 and 0730 on the day of need.
- (3) The company Captain affected will designate someone on duty to be held over until arrival of the persons called back.
- (4) All overtime worked as callback shall be entered on the chart maintained by the Shift Commander, as well as a record of "no answers," "refusals," etc.
- (5) Any represented employee giving advance notice to the Shift Commander of his/her unavailability for callback duty for a specific period of time shall not lose his/her position on the callback chart.
- (6) Failure to respond to callback by reason of an industrial disability injury shall not affect callback eligibility, provided however the employee shall not be eligible for callback until he/she has a full release to return to regular duty. Employees shall accrue no more than 2 callback slots during a disability absence from regular duty.
- (7) More detailed procedures regarding the order of callback for 24-hour shifts will be provided in a departmental General Order. Changes to these detailed procedures regarding the order of callback for 24-hour shifts will be subject to meeting and conferring with Local 2180. However, Local 2180 recognizes that with the implementation of *Constant Minimum Staffing*, the General order concerning callback procedures must be changed so that overtime is available to all Local 2180 employees on an equitable basis. "Equitable" does not mean that every person, rank for rank, will receive the same amount of overtime, but that the method used for selection will be fair and unbiased. The Fire Chief and Local 2180 will examine systems used in other agencies to determine the best and most equitable system to be used. Recognizing that the change to *Constant Minimum Staffing* will result in substantially more overtime for its members, Local 2180 agrees that the Fire Chief may have to implement a callback system that balances the desires of its members with ease of administration. This would include such factors as the need to obtain members for work without numerous calls. It is expected that such a system would include a "will work" list instead of an "unavailable list."

2.06 STANDBY

- I. Definition - Standby duty is defined as that period of time assigned by the Battalion Chief or Fire Marshal in addition to the employee's normal work week assignment, during which said employee must remain at all times where he/she can be contacted by telephone or beeper, ready for callback to perform an essential service.
- II. Application in Suppression - In addition to his/her regular salary, Suppression personnel shall be compensated with an additional \$16 per each full 24-hour shift assigned to standby duties. If a Suppression employee works less than a full shift of standby, he/she shall be compensated \$0.66 per hour assigned to standby duties.
- III. Application in Non-Suppression - In addition to his/her regular salary, non-Suppression personnel shall be compensated with an additional \$100 per each full week assigned to standby duties. Since the normal work week of non-Suppression personnel is 40 hours and since standby duty is defined as being in addition to an employee's normal work week assignment, a full week of standby duty would be 128 hours of standby duty. If a non-Suppression employee works less than a full week of standby, he/she shall be compensated \$0.78 per hour assigned to standby duties.
- IV. Any callbacks that occur while an employee is on standby duty shall not reduce the amount of standby pay the employee would have earned had there not been a callback. Any overtime or callback pay shall thus be in addition to the standby pay. In terms of FLSA, the parties agree that standby time shall not be counted as hours worked.

2.07 HEALTH AND WELFARE

- I. **Section 125 Cafeteria Benefits Plan (aka Flexible Benefits Plan)**-The City will provide to each represented employee a Cafeteria Plan allotment of benefits intended to qualify under Section 125 of the Internal Revenue Code. Annually, the Plan Document containing the specific provisions of the Plan will be adopted by the City Council. That plan document will incorporate the provisions herein.

Enrollment-Newly eligible employees (new hires or those changing from an ineligible to eligible position) will be covered under the City's Cafeteria Benefits Program effective their date of hire in that eligible position. Employees who fail to submit required benefit election forms within 30 days of their date of eligibility will automatically be enrolled in the Employee Only category of the lowest cost City sponsored health plan available and the balance of their Cafeteria Benefits Plan allotment will be placed in the taxable Cash option.

- A. For the term of this agreement the City will provide the following base (Effective January 1, 2001) Cafeteria Plan allotments to represented employees (based on the number of their declared dependents):

Employee Only	\$2,324
Employee Plus One	\$4,292
Employee Plus Two or More Dependents	\$5,792

Annually, thereafter, the City will share any increases in cost for the Kaiser 4253-01 Medical Plan Premium or equivalent health maintenance organization (HMO) for the respective coverage group (e.g. Employee Only, Employee Plus One, etc.) on a 50/50 basis.

The City's share of the increased cost will be added to the beginning Cafeteria Plan balance of the next available Cafeteria Plan year (January 1).

- B. **Medical Insurance**-From this allotment each represented employee must select coverage for themselves under one of the City sponsored medical plans, unless they are married to another City employee and are covered under the spouse's plan. In addition to their own coverage, the employee may elect coverage under one of the City sponsored plans for their qualified dependents.

Any difference between the Cafeteria Plan allotment and the cost of the coverage elected by the employee shall be paid by the employee through payroll deductions.

The City agrees to provide as a medical plan option, Kaiser 4253-01 (or an equivalent health maintenance organization (HMO)).

- C. **Dental Plan**- Represented employees will be eligible to participate in any City sponsored group dental plan. Any difference between the employee's available Cafeteria Plan allotment and the premium for the selected plan will be paid by the employee through payroll deductions.
- D. **Dental/Medical/Vision (D/M/V) and Dependent Care Reimbursement Accounts**- Employees may allocate a portion of their Cafeteria Plan allotment to either of the reimbursement account options.
- E. **Cash**-Employees may allocate a portion of the Cafeteria Plan allotment to a Cash payment that will be paid to the employee on a pro-rata accrual twice a year. This option is taxable.
- F. **Medical and Dental Premium Payroll Deductions as Pre-Tax**-As stated in paragraphs B and C above, any premiums for Medical or Dental coverage elected under the City's Cafeteria Plan that are in excess of the employee's Cafeteria Plan allotment will be paid by the employee via payroll deduction. These deductions will be made on a pre-tax basis as allowed under Sections 125, 105, and 213 of the Internal Revenue Code. If an employee would prefer to have the deductions taken on a post-tax basis they must present their request for such change in writing to the Human Resources Department. If the City does not meet IRS requirements, or if the IRS regulations change for any reason, this benefit may be discontinued. It is the intent of the parties that participating employees receive the maximum benefit allowable in accordance with IRS regulations.
- G. **Insurance Coverage While on Leave of Absence Without Pay**-Represented employees on leave without pay for any reason may continue, at their own expense,

their group insurance coverage by paying the full cost of their premium plus a 2% administrative fee. This provision is subject to Section 2.11 of this MOU which defines insurance coverage while on disability leave.

Upon an employee's return from leave without pay, the employee's benefits will be reinstated to the same benefit level in effect prior to the leave without pay status, provided the employee is eligible to receive City benefits. Benefit coverage of an employee who paid for the cost of his or her insurance while on leave of absence and who returns to work prior to the 15th of the month, will not be required to pay their insurance premiums for that month.

- H. **Termination of Benefits Upon Separation of Employment**-An employee's coverage under the City's group medical, dental, and group term life insurance plans is effective through the last date of the month in which the employee's termination is effective.

The employee may continue their coverage beyond that date, at their own expense, in accordance with the Federal COBRA law. The cost of COBRA coverage is their premium plus a 2% administrative fee. This provision is subject to Section 2.11 of this MOU which defines insurance coverage while on disability leave.

II. **Flexible Spending Accounts (FSAs)**-Health Care and Dependent Care

Represented employees will be eligible to participate in the two Flexible Spending Account (FSA) options offered by the City. These accounts are allowed by Sections 125, 105, 129, and 213 of the Internal Revenue Code. Employees may elect to set aside a portion of their salary, on a pre-tax basis, to fund eligible health care and dependent care expenses. If the City does not meet IRS regulations, or if the IRS regulations change for any reason, this benefit may be discontinued.

The maximum amounts an employee may set aside are:

\$2,500 for Health Care

\$5,000 (from all sources, including Cafeteria Plan) Dependent Care

These accounts may only be established during the Benefits Open Enrollment or within 30 days of a qualifying change in family status as defined by the IRS.

Salary deductions will be taken 24 pay periods per year, bi-weekly except for those months with three pay periods, where deductions will only be taken two times. Reimbursements will be made on a schedule to be determined by the City. Requests for reimbursement must be made on forms provided by the City. Any monies not used by the end of the plan year will be forfeited. Specific details of the plan are provided in the City's Summary of Benefits publication available from Human Resources.

The City reserves the right to contract with a Third Party Administrator for administration of both FSAs. The City will pay the start-up costs associated with third party administration. Participating employees will pay any fees (monthly, per employee, or per transaction) required.

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- III. **Life Insurance**-The City agrees to contribute the amount necessary to provide each employee with \$10,000 in group term life insurance. Represented employees may purchase additional life insurance through the City's group insurance plan, with said employees paying the additional cost through payroll deductions. These premium deductions will be taken on a pre-tax basis up to the maximum allowed by law. Any premiums for coverage in excess of that maximum will be taken on a post-tax basis. See Section 2.11 regarding payment for health and life insurance during an unpaid Leave of Absence of more than one month.
- IV. **Medical Premium Retirement Benefit Plan**-The City will offer a medical premium retirement benefit plan, under Section 457(f) of the Internal Revenue Code, to all represented employees through the JPEBA, Joint Powers Employee Benefit Authority (or an equivalent plan). This program will provide employees the option of making unlimited pre-tax contributions from their wages to pre-fund post-retirement health insurance premium costs for themselves and their dependents. Since IRC Section 457(f) requires restrictions on the program that can result in forfeiture of the contributions to the City for specified reasons, employees are advised to carefully review the information that will be provided on the program prior to deciding whether or when to participate.

The City will pay the start-up costs associated with third party administration. Participating employees will pay the participant costs (currently \$24 per year). If the City does not meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued.

2.08 RETIREMENT

The City will provide to represented members retirement benefits via contract with the California Public Employees Retirement System (CalPERS).

As long as it has the clear legal authority to do so the City agrees to continue Section 414(h)(2) of the Internal Revenue Code relative to employee retirement contributions, which permits employee CalPERS contributions to be treated as deferred compensation.

The City will provide the 2% at 50 Retirement Plan (Section 21362) for Local Safety Members as provided for under the California Public Employees' Retirement System (CalPERS). In addition to payment of the mandatory employer's contribution to represented employees' retirement benefits, the City agrees to also pay the employee's portion of the PERS contribution, which is presently fixed at 9%.

The City will provide the following CalPERS contract options:

- A. One-Year Final Compensation (Section 20042) Effective 9/27/90.
- B. Post-Retirement Survivor Allowance (Sections 21624, 21626, and 21628) Effective 9/28/84.
- C. Credit for Unused Sick Leave (Section 20965) Effective 10/08/76.
- D. 1959 Survivor Benefits- 4th Level 1959 Survivor (21574) Effective 5/29/98. The \$2.00 monthly member cost for this benefit will be paid by the City.
- E. Military Service Credit as Prior Service (Section 20996) Effective 10/07/94.

Effective July 1, 2001, the City will provide Employer Paid Member Contributions Converted to Payrate During Final Compensation Period (Section 20692).

Effective July 1, 2002, the City will provide the 3% at 50 Retirement Plan for Local Safety Employees (Section 21362.2) benefit.

2.085 EDUCATION INCENTIVE PAY

- I. Employees represented by Local 2180 shall be entitled to education incentive pay as detailed below:
 - A. Upon verification that a represented employee has completed course work for and received an Associates degree, the employee shall receive \$100 per month in education incentive pay.
 - B. Upon verification that a represented employee has completed course work for and received a Bachelors degree, the employee shall receive \$150 per month in education incentive pay.

2.09 HOLIDAYS

- I. Scheduled Holidays
 - A. Employees assigned to the Fire Suppression Division will receive one hundred twenty (120) hours holiday pay at straight time (10 hours for each of the 12 holidays described below) each fiscal year. Holiday pay shall consist of approximately 4.60 hours per pay period for each employee in the bargaining unit. All holiday pay for the time period commencing the first full pay period in July 1, 1996, until the date the City Council adopts the MOU, shall be paid in one lump sum during the first full payroll period or as soon as is practical. Pro-rated adjustments will be made for employees of represented classifications entering or leaving the Fire Suppression Division of the Department. (Revised FY 1998-2003)
 - B. Employees assigned to divisions other than Fire Suppression shall accrue 8 hours of holiday time for each of four (4) floating holidays and 10 hours of holiday time for each of eight (8) hard holidays, only if they work a 4-10 workweek (four ten-hour days). If said employees work a 5-8 work week (five eight-hour days), they shall accrue 8 hours of holiday time for each of the eight (8) hard holidays. Compensation will be administered as designated in the Civil Service Rules, Chapter 2.00, Section 2.01 (D). (Hard holidays are: New Year's Day, Martin Luther King's

Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day; floating holidays are: Lincoln's Birthday, Washington's Birthday, Admission Day, and Veterans Day.)

- II. Unscheduled Holidays

Members of the Fire Department from Fire Fighter up through the rank of Fire Captain shall work unscheduled holidays (i.e., special holidays declared by the President or Governor) at their regular

hourly rate of pay. If employees have that day off, they will not receive extra compensation for the unscheduled holiday.

2.10 VACATION AND SICK LEAVE

I. Miscellaneous

A. Definition - for the purpose of this section the following definitions shall apply:

1. "Continuous service" means City service uninterrupted by separation.
2. "Intermittent service" means City service interrupted by separation.
3. "Time worked" includes actual time worked, holidays with pay, and leave of absence without pay (not to exceed one year) for which worker's compensation is paid. It shall also include Saturdays, Sundays or other regular days off which are immediately preceded or immediately followed by other time worked.
4. "Active service" includes time worked, leave of absence without pay not to exceed 14 calendar days and leave of absence not to exceed one (1) year for which workers' compensation is paid.

B. Amount of Vacation and Sick Leave Use - Employees assigned to Fire Suppression must take a minimum of 2 hours of vacation, compensatory time, or sick leave at one time. This 2-hour minimum shall not apply if the time off occurs within the first two hours or last two hours of the employee's regular shift. During this first two hours or last two hours of the regular shift, the employee will be charged for the actual time taken off. (Revised FY 97/98)

II. VACATION

A. Vacation Accrual - Continuous Service: Each employee paid at a biweekly rate who has had continuous full-time active service shall be entitled to vacation with pay. The following provisions shall apply:

1. The vacation accrual rates shall be as follows:

Employees assigned to Fire Suppression will accrue and be eligible to receive 112 hours annually, (cumulative to a maximum total leave balance of 224 hours) during the first through fourth year of service. This benefit will be accumulated at the rate of 4.30 working hours for each full biweekly pay period of service performed. Employees assigned to divisions other than Fire Suppression are eligible to receive 80 working hours annually (cumulative to a maximum total leave balance of 160 hours) accrued at the rate of 3.07 working hours for each full biweekly pay period of service performed.

Employees assigned to Fire Suppression will accrue and be eligible to receive 168 hours annually, (cumulative to a maximum total leave balance of 336 hours) during the fifth through fifteenth year of service. The benefits will be accumulated at the rate of 6.44 working hours for

each full biweekly pay period of service performed. Employees assigned to divisions other than Fire Suppression are eligible to receive 120 working hours annually (cumulative to a maximum total leave balance of 240 hours) accrued at the rate of 4.60 working hours for each full biweekly pay period of service performed.

Employees assigned to Fire Suppression will accrue and be eligible to receive 224 hours annually, (cumulative to a maximum total leave balance of 448 hours) during the sixteenth and succeeding years of service. This benefit will be accumulated at the rate of 8.59 working hours for each full biweekly pay period of service performed. Employees assigned to divisions other than Fire Suppression are eligible to receive 160 working hours annually (cumulative to a maximum total leave balance of 320 hours) accrued at the rate of 6.14 working hours for each full biweekly pay period of service performed.

2. Maximum Vacation Accrual - At no time may an employee have more than two years of vacation leave accumulated (i.e. twice the number of hours accrued annually). No vacation credits shall be accrued above this limit.
- B. Payment upon Separation - At the time an employee is separated from the City service, whether voluntarily or involuntarily, he/she shall be granted all of the unused vacation to which he/she is entitled based upon his/her active service in prior years, and in addition, he/she shall be granted vacation based upon the length of his/her active service during the year in which the separation occurs and computed on the basis set forth in Section (A). Payment shall be made hour for hour with any portion of an hour being considered a full hour.
- C. Vacation Use - Vacation balances shall be reduced by the actual time not worked to the nearest quarter hour. Absence may not be charged to vacation not already accumulated.
- D. Payback - All members of represented classifications who have completed at least four years of service shall have the option of selling one week (56 hours for employees assigned to Fire Suppression and 40 hours for employees assigned to other divisions) of said vacation back to the City annually. The accumulated vacation balance will be reduced accordingly. Payment of vacation hours will be made the first payday of any month provided that the Finance Department has received ten working days advance notice of the request prior to payday.
- E. Previously earned vacation balances will be adjusted if personnel are reassigned for more than 2 consecutive pay periods to activities requiring a different duty week. A transfer from Suppression to Prevention or Training requires the reduction of the accumulated balance by 1.40 (existing balance divided by 1.40), and a transfer from Prevention or Training to Suppression requires an increase in the accumulated balance by 1.40 (existing balance multiplied by 1.40). In addition, the accrual rate will be made to conform to the new duty week effective the first pay period beginning after the day assigned, if the reassignment is for more than 2 consecutive pay periods.
- F. The Shift Commander of each shift will be responsible to see that the vacation requests for his/her shift are posted at each station by March 1 of each year.

III. SICK LEAVE

The City is providing language with alternative wording that, while not permitting Local 2180 members to use sick leave for industrial injuries in the vast majority of cases, will not zero out sick leave balances which may then be applied at retirement for service credit. In addition, in the very unusual and extraordinary circumstances where an injured employee will be able to return to fill duty within a reasonable period of time, but longer than a year, the City Manager may permit the use of sick leave. The elimination of Section III. F. is not possible without the new language proposed below for Section III. A.

- A. Accumulated paid sick leave credit is to be used for the sole purpose of protecting the employee's wages in the event absence is made necessary because of disability due to non-industrial injury or illness of the employee, or illness of the employee's immediate family. For the purposes of this article, immediate family is defined pursuant to the Family and Medical Leave Act. Sick Leave may not be used for absences due to an industrial injury or illness except as follows: in the event an employee sustains an industrial injury or illness that requires an absence beyond the one year of paid leave afforded by Labor Code 4850 and it appears, based on the medical evidence, that they will be able to return to full duty within a reasonable time frame, they may be granted an exemption to the non-industrial causation requirement of this section. This determination will be made by the City Manager on the advice of the Fire Chief, Director of Human Resources, and the Risk Manager, based on the medical evidence. If this exemption is granted and the employee fails to return to full duty for any reason other than the disabling condition, they may be required to pay back to the City all salary and benefits provided and accrued during the exemption period if it is determined that the employee is intentionally attempting to defer their retirement beyond the one year of paid leave afforded by Labor Code Section 4850. When an employee is on sick leave, any type of outside employment will not be permitted. The clear intent of this section is to prevent (except in very unusual cases) an employee from deferring their retirement beyond the one year of paid leave afforded by Labor Code 4850. (Added FY 97/98)
- B. Members of represented classifications assigned to the Fire Suppression Division will accumulate sick leave at the rate of 5.15 working hours for each biweekly pay period of service.
- C. Members of represented classifications assigned to divisions other than Fire Suppression will accumulate sick leave at the rate of 3.68 working hours for each biweekly pay period of service (96 hours annually).
- D. Previously earned sick leave balances will be adjusted if personnel are reassigned for more than 2 consecutive pay periods to activities requiring a different duty week. A transfer from Suppression to Prevention or Training requires the reduction of the accumulated balance by 1.40 (existing balance divided by 1.40), and a transfer from Prevention or Training to Suppression requires an increase in the accumulated balance by 1.40 (existing balance multiplied by 1.40). In addition, the accrual rate will be made to conform to the new duty week effective the first pay period beginning after the day assigned, if the reassignment is for more than 2 consecutive pay periods.

E. Unused sick leave may be accumulated in an unlimited amount but the City shall have no financial obligation to pay for such accumulated and unused sick leave upon termination from the City for any reason provided, however, this subsection does not abrogate the employee's right to have all unused accumulated sick leave credited to his/her service credits under PERS upon retirement or any rights provided under Section G below. In calculating the number of days of service credits under PERS, unused accumulated sick leave hours will be divided by 8.0.

F. Sick Leave Reimbursement

- (1) Employees shall have the option of converting 50% of their accumulation of unused sick leave for the fiscal year to pay. In calculating the number of hours that could be converted to pay, all computations shall be rounded to the nearest whole hour and the fiscal year will be considered to start and end with the first pay period commencing in July of each year.
- (2) If the pay option is selected, the paid sick leave hours shall be subtracted from the employee's accumulated yearly sick leave balance. The remaining sick leave hours shall be carried over and accumulated.
- (3) Payment for the previous fiscal year will be made during the month of July of each year. Pay will be computed based on the employee's base salary rate on June 15.
- (4) An employee will not be eligible for sick leave reimbursement under this plan if it would result in the employee having an accumulated sick leave balance of less than the amount that the employee would earn during a two-year period. This restriction shall not apply to subsections (5) and (6) below.
- (5) Permanent employees who retire during the fiscal year may be compensated in a prorated manner under this plan based on their formal retirement date. Prorated payment may also be made under this plan to an employee who terminates during the fiscal year.
- (6) In the event of the death of a represented employee while employed by the City, 50% of the employee's total unused accumulated sick leave, after consideration for any reductions allowed under PERS Sick Leave Conversion/Service Credit Policy, will be paid to the appropriate beneficiary.
- (7) In the event of the death of a represented employee while employed by the City and while performing the duties under his/her job description during a regularly scheduled work period (to include overtime and stand-in work periods), 100% of the employee's total unused accumulated sick leave, after consideration for any reductions allowed under PERS Sick Leave Conversion/Service Credit Policy, will be paid to the appropriate beneficiary.

G. Sick leave balances shall be reduced by the actual time not worked to the nearest quarter hour. Absence for illness may not be charged to sick leave not accumulated.

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- H. Sick Leave Verification - The City may, in its discretion, require a doctor's certificate and/or personal sworn affidavit verifying the nature, severity, and cause of the disabling injury or illness of the employee or illness or injury of immediate family members in order to determine eligibility for use of sick leave.
 - I. The City and Local 2180 agree that Sick Leave is a benefit and not a right. Local 2180 agrees to work with the Fire Chief towards a goal of eliminating sick leave abuse.

IV. BEREAVEMENT LEAVE

When an employee with permanent status is compelled to be absent from work because of the death of an immediate family member, an immediate family member of the employee's spouse, or any other person defined by the Internal Revenue Service as a dependent, and after such employee makes written request and receives written department head approval, such employee may be allowed the privilege to be absent from work with pay for any scheduled work during a period of up to five (5) calendar days, plus reasonable travel time. Travel time will be actual time used not to exceed three (3) calendar days. Paid absence for family death shall be charged to sick leave. For purposes of bereavement leave, immediate family includes husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent or any other person serving as a parent, grandmother, grandfather, or any other person living in the same household as the employee.

2.11 LEAVE OF ABSENCE

Employees who are mentally or physically incapacitated to perform their duties or who desire to engage in a course of study such as will increase their usefulness on their return to the classified service or who, for any reason considered to be in the best interest of the City government by the appointing authority and the Director of Human Resources desire to secure leave from their regular duties may, on written request, subject to the recommendations of the appointing authority and the Director of Human Resources and with the approval of the City Manager, be granted leave of absence without pay for a period not to exceed one year. Employees asking for leave of absence without pay shall submit their request in writing stating the reasons why, in their opinion, the request should be granted, the date when they desire the leave to begin, and the probable date of their return. For each leave without pay, the Director of Human Resources shall determine whether employees granted such leave shall be entitled to their former position on their return from such leave or whether their name shall be placed on the reinstatement list for the class as provided for in the Civil Service Rules. If a request for leave is denied, such denial is appealable to the Civil Service Commission.

An employee who is granted an unpaid leave of absence for more than one month for any reason, including a leave for disciplinary purposes, shall pay the cost of health and life insurance premiums for the entire period of the leave of absence, provided, however, that this provision shall not apply if the leave of absence is a result of the employee being ill or disabled.

2.12 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of applicable State and Federal laws (California Military and Veteran's Code).

2.13 JURY DUTY AND COURT LEAVE

I. Jury Duty

Permanent and probationary employees who are called to serve on jury duty for any county, state or federal court within the San Diego area shall be entitled to paid leave under the following circumstances:

- A. They must present to their supervisor the court order to appear for jury duty at least three weeks prior to their date to report.
- B. All fees received by the employee for jury duty for days when scheduled for work, not including travel or subsistence pay, shall be submitted to the City.
- C. The employee must submit a daily court authorized, stamped time card accounting for all hours of required service ordered by the court.
- D. The Fire Chief will determine whether the employee is expected to report to work before or after jury service.
- E. Employees who are required to serve jury duty on their scheduled days off will not be compensated for this time and may keep any fees paid by the court.
- F. If the employee is not required to report for jury duty on any particular day(s), they are then expected to be at work as per their normal schedule.
- G. It is the employee's responsibility to inform his or her supervisor on a daily basis if they are required to report for jury duty the following day. This may include calling a supervisor after or before normal working hours.
- H. Absence due to jury duty will be submitted on the City leave form.

II. Court Leave

Court leave is paid leave granted by the City to enable an employee to fulfill his/her duty as a citizen to serve as a witness in a court action to which the employee is not a party, before a Federal, Superior, or Municipal Court located within San Diego County.

Court leave shall be limited to:

- A. Required attendance before Federal, Superior, Municipal, and Justice Courts located within San Diego County.

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- B. Time in attendance at court together with reasonable travel time between court and work if the employee can reasonably be expected to return to work.
 - C. Court leave shall not be granted when the employee is paid an expert witness fee.
 - D. The employee must submit to the City any payment received, except travel and subsistence pay, for such duty.
 - E. Court leave will only be granted to employees who are not litigants in a civil case, related to litigants in a civil case, or defendants in a criminal case.
 - F. Employees shall provide their supervisor with a copy of the legal subpoena and provide other documentary evidence of service.

2.14 LIMITED DUTY TIME

Activities during limited duty time shall be limited to passive hobbies which: (1) shall not detract from a person's ability to respond immediately to any emergency; (2) shall not include any commercial or profit-making venture; (3) shall not be so cumbersome or bulky as to infringe upon other members' lawful activities; and (4) shall not cause an unusual amount of dust or debris, loud or distracting noises, repugnant odors, or dangerous vapors. No use of City tools or materials, except water and hoses for washing personal vehicles, shall be permitted routinely. Except for emergency repairs, there will be no repair or maintenance on any personal motive equipment. This item shall not abrogate the right of a Fire Captain, Battalion Chief, or Fire Chief to curtail any activity which in his/her opinion is undesirable for the circumstances existing at that time, nor shall this item limit the right of the department to require night or evening drills or training, night or evening inspections, or other related work.

2.15 LIMITED DUTY DAYS

Such days shall be New Year's Day, Martin Luther King, Jr.'s Birthday, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. Work required on limited duty days shall consist of daily, routine schedule, and emergency duty.

2.16 SHIFT EXCHANGE

The City agrees to continue to allow the practice of shift exchanges, subject to the provisions of the Fair Labor Standards Act.

Subject to the Battalion Chiefs or Fire Marshal's approval, employees shall have the right to voluntarily exchange shifts or parts of shifts when the change does not interfere with the operation of the Fire Department. In addition to exchange rank for rank, personnel of a lower classification but of qualified rank may be permitted to exchange shifts.

"Paybacks" of shift trades are the obligation of the employees involved in the trade. Paybacks should be completed within one calendar year of the date of the initial shift trade. Any dispute as to

paybacks is to be resolved by the involved employees. The City is not responsible in any manner for hours owed to employees by other employees who leave the employment of the City or are assigned other duties.

A record of all initial shift trades and "paybacks" shall be maintained by the involved employees on forms provided by the department.

Shift exchanges will not be allowed if, by working a shift exchange, an employee would end up working more than 72 consecutive hours, except under extreme emergency situations as authorized by the Fire Chief or his or her designee.

2.17 OUT OF CLASSIFICATION ASSIGNMENT

- I. Employees assigned duty as an Acting Fire Engineer, Acting Fire Captain or Acting Battalion Chief for a period of at least one full regularly scheduled, continuous work shift (24-hour period) shall receive compensation at a rate of five percent (5%) above his/her base pay. Payment will be retroactive to the beginning of the first regularly scheduled shift of the out-of-class assignment and will continue until the out-of-class assignment ends, provided the above full-shift minimum is met.
- II. Employees assigned duty as Acting Fire Marshal for a period of at least 1 continuous week shall receive compensation at a rate of five percent (5%) above his/her base pay, excluding any overtime or standby pay. Payment will be retroactive to the beginning of the out-of-class assignment and will continue until the out-of-class assignment ends, provided the above full-week minimum is met.
- III. The assignment of Acting Fire Engineer, Acting Fire Captain, Acting Battalion Chief, or Acting Fire Marshal shall be made in writing and shall indicate the date and time the assignment begins. If any part of an hour is worked as an out-of-class assignment, the entire hour will be considered an out-of-class assignment.

2.18 BILINGUAL PAY

Those employees who, upon the recommendation of the Fire Chief, the approval of the Human Resources Department and City Manager, and the successful completion of a Bilingual Performance Evaluation, are regularly required to use their bilingual skills in the performance of their duties will receive \$100 per month in addition to their regular pay. In order to continue receiving bilingual pay, employees must successfully complete a Bilingual Performance Evaluation on at least a biannual basis. (Revised FY 97/98)

The City reserves the right to assign employees receiving Bilingual Pay to duty stations where, in the City's judgment, their bilingual ability is most useful in providing Fire Department services. The City and Local 2180 agree to develop mutually acceptable guidelines for a new testing process. Said testing process and material to be tested shall be given to Local 2180 members prior to the test. (Revised FY 97/98)

2.19 DIFFERENTIAL PAY

Represented employees assigned to the Fire Prevention or Training Divisions will receive 7-1/2% additional compensation over their base wage, after they have been assigned to said Division for at least two consecutive pay periods.

2.20 VACANCIES -PROMOTIONS

- I. When a permanent vacancy occurs in any position, it shall be filled in accordance with the Civil Service Rules, Chapter 1.00, Section 1.05 (A).
- II. The City of Chula Vista will maintain promotional eligible lists so that not more than 120 days elapse between expiration and establishment of new lists.
- III. Long Term Acting or Out of Class Assignments will be made for the position of Suppression Fire Captain and Battalion Chief in the event that personnel in these positions are on injury leave or modified duty for a period of more than 6 weeks. These Long Term Acting or Out of Class Assignments shall not exceed six (6) months.

2.21 LAYOFF

- I. The City shall adhere to the following layoff procedure whenever it considers it necessary to reduce the unit's labor force in order to lessen governmental costs, reorganize City operations or reduce/eliminate City services.
- II. Order of Layoff: Unit employees shall be laid off in the order specified below. Within categories 1, 2, 3, 4, 7 and 8, employees shall be laid off in order of seniority. In category 5, layoff decisions will be made by the Fire Chief. Employees in category 6 will have the right to bump back to the classification from which they were promoted.
 - (1) Employees filling unbudgeted positions.
 - (2) Vacation relief or other work relief positions.
 - (3) Temporary employees.
 - (4) Interim employees.
 - (5) Probationary employees (original permanent appointment).
 - (6) Employees on probation following promotion.
 - (7) Permanent employees whose last merit increase was withheld for reasons of job performance, or who have, within the 26 pay periods immediately prior to layoff, been subject to disciplinary suspension of three days or more, or who have been demoted or

reduced in pay for cause as defined in the Civil Service Rules, Chapter 1.00, Section 1.08 (A).

(8) Permanent employees.

III. Seniority Defined: Seniority means continuous service with the City. Where equal, seniority shall be determined based on and in the following order:

Continuous service in Department, in classification, and employee scores on eligibility lists and/or evaluation ratings.

IV. Demotions and Reassignments: In connection with layoffs of unit employees, the Fire Chief may demote to lower classifications or otherwise transfer or reassign employees in order to assure a balanced organizational and operational structure in the Department.

V. Reinstatement/Re-employment Lists: Employees demoted or laid off shall have their names entered onto a reinstatement/Re-employment list, with those demoted or laid off last being placed at the top of the list. Any Re-employment into the classification shall first be through use of reinstatement lists and then Re-employment lists, with only the candidate placing highest on a list being certified to the appointing authority. When a rehire is anticipated the top person on the appropriate list will be sent written notice by Certified Mail, Return Receipt Service. If the individual cannot be contacted at the address in the Human Resources Department records, that person's name shall be removed from the list.

Persons on reinstatement and/or Re-employment lists are responsible for seeing that the Human Resources Department has current addresses on file. If an individual declines a Re-employment offer or fails to respond within three (3) working days from the date the receipt is received by the Human Resources Department, his/her name will be removed from the list. Names will remain on the Reemployment list for not more than twenty-four months.

VI. Notice of Layoff-. The Human Resources Director shall send written notice by Certified Mail to the last known address of each employee to be affected by a layoff at least fourteen (14) days prior to the effective date of the action.

VII. Restoration of Benefits Upon Re-employment Following Layoff. Following rehire off of a Reemployment list, an individual will have the following benefits restored:

- (1) Sick leave accruals (less any such sick leave reimbursed at the time of layoff.)
- (2) Seniority at time of layoff for purposes of determination of continuous City service, eligibility for merit increases and vacation accrual rates.
- (3) The pay rate that will be awarded to a person who is re-employed shall be within the pay range for the classification effective at the time of Re-employment. The step within the range will be the same step the employee was receiving at the time of layoff.

2.22 EQUIPMENT RESPONSIBILITY AND PROPERTY REPLACEMENT

- I. The City will hold employees harmless for equipment damaged or lost, except for acts of negligence, vandalism, intoxication or other substance abuse.
- II. Any represented employee who, in the normal course of his/her employment, **suffers damage** or destruction as a result thereof to his/her prescription glasses or wrist watch, shall be entitled to replacement or repair thereof upon investigation and recommendation by such employee's department head, and approval by the City Manager, provided such damage or destruction did not occur as a result of such employee's negligence. Said reimbursement shall not exceed the reasonable value of functional replacement or repair. An employee will be reimbursed up to \$75 or actual cost, whichever is less, for prescription glasses and up to \$50 or actual cost, whichever is less, for watches which are damaged or destroyed.

2.23 DEFERRED COMPENSATION

All represented employees shall be eligible to participate in the City's approved Deferred Compensation plans.

2.24 VOLUNTARY TIME OFF POLICY

Represented employees are eligible to participate in the Voluntary Time Off (VTO) Policy, as adopted by Resolution 17126 of the City Council on May 25, 1993, subject to the prior approval of the Fire Chief.

3.01 PROHIBITED PRACTICES

- I. Local 2180 pledges it shall not cause, condone or counsel represented employees or any of them to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede or otherwise impair the normal functions and procedures of the Department or the City.
- II. Should any represented employees breach the obligations of Paragraph I while this Memorandum of Understanding is effective, the City Manager or his/her designee shall immediately notify Local 2180 that an alleged prohibited action is in progress.
- III. Local 2180 shall forthwith, and in any event, within eight working hours disavow said strike or other alleged prohibited action, shall advise such employees orally and in writing to immediately return to work and/or cease the prohibited activity and provide the City Manager with a copy of its advisement, or, alternatively, accept the responsibility for the strike or other prohibited activity.
- IV. If Local 2180 disavows the prohibited activity and takes all positive actions hereunder in good faith, the City shall not hold Local 2180 financially or otherwise responsible. The City may impose penalties or sanctions as the City may appropriately assess against the participants.

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- V. Should Local 2180 breach its obligations or any of them under this section while this Memorandum of Understanding is effective, it is agreed that the City shall pursue all legal and administrative remedies available to the City that in its discretion it may elect to pursue.
 - VI. There shall be no lockout by the City while this Memorandum of Understanding is effective.

3.02 MINIMUM STAFFING LEVELS

- I. Effective with ratification of this MOU by Local 2180 and the City Council, the minimum staffing level shall be 22 Fire Suppression personnel in classifications at the Fire Captain level or below. When and if the City Council determines that the Telesquirt should be moved to the new Station 4 and operated as a Ladder Truck, the Minimum Staffing Level would increase from 22 to 23. This increase would take effect when the Telesquirt actually moves. In subsequent years, when the City Council determines that a new Ladder Truck is necessary in the Eastern part of the City, purchases and receives said truck, and determines that the use of the Telesquirt is no longer necessary as a Ladder Truck, staffing for the Telesquirt would return to three people.
- II. *Constant Minimum Staffing*- Notwithstanding City Rights enumerated in Section 1.03, the City agrees to shift from Supplemental Staffing to *Constant Minimum Staffing* as the method used to staff Fire Suppression. In order to prevent layoffs, the City agrees to reach the number of employees required for *Constant Minimum Staffing* by not filling any vacant Firefighter positions unless the number of Suppression employees falls below that required for minimum staffing of 22 per shift or whatever minimum staffing level may be in effect at that time. Local 2180 agrees that as it recognizes the economic benefit its members will gain by this shift, that it accepts the need to curtail Sick Leave abuse as enumerated in the Overtime and Sick Leave sections contained in this MOU.

3.03 STATION MAINTENANCE AND REPAIR

Employees represented by Local 2180 agree to perform normal fire station maintenance and repair. "Normal fire station maintenance and repair" shall not include major construction or renovation projects that are determined by the Fire Chief to be beyond the capability of the represented employees or are projects that would seriously interfere with the ability of represented employees to respond to emergencies. The City agrees to provide materials and equipment necessary to perform the normal fire station maintenance and repairs as provided herein. The fire station maintenance and repair duties will be performed between 0730 and 1630.

3.05 DRIVING ELIGIBILITY POLICY

Whenever an employee drives a vehicle for City business, he or she shall have a valid California driver's license. In order to ascertain the validity of the employees' licenses, employees must present their driver's license to their supervisor upon request. If an employee's driver's license is revoked, suspended, or otherwise made invalid, the employee must immediately inform his or her supervisor. Failure to notify the supervisor may result in immediate disciplinary action. The City

reserves the right to check with the Department of Motor Vehicles to investigate an employee's driving record and to determine if the employee's driver's license is valid.

An employee who does not possess a California driver's license will be considered for a non-driving position, if one is available in the employee's classification. The non-driving assignment will continue for a maximum of six months if there is a reasonable expectation the employee will have a valid California Driver's License at the expiration of that time. Extensions to the six-month limit will be considered on a case-by-case basis; however, in no case shall an employee receive more than one non-driving assignment in any three-year period. When no non-driving assignment is available, employees may request a leave of absence without pay for six months or until such time as their license is once again valid, whichever is shorter.

3.06 PHYSICAL ABILITY TESTING PROGRAM

- I. Physical Ability Testing Program - Unless they request and receive an exemption from the Fire Chief, all represented employees shall take an annual physical ability test. The annual physical ability test will consist of job-related physical ability events which have specific performance standards which must be met by each employee in order to pass the test successfully. Prior to implementing this testing program, the City has discussed the appropriate physical ability performance standards and tests with representatives of Local 2180, and the City will continue to consider Local 2180's input on the performance standards and tests during the term of this agreement. A written and graphic description of the annual physical ability test, as well as the procedures for retesting any employees not passing the annual test, will be provided in a departmental General Order available in all fire stations. (Revised FY 97/98)

3.07 SUBSTANCE ABUSE POLICY

Represented employees are subject to the City's current substance abuse policy.

3.08 GRIEVANCE PROCEDURE

This grievance procedure shall be in effect during the full term of this Memorandum of Understanding.

Section I. PURPOSE. The purposes and objectives of the Grievance Procedure are to:

- (1) Resolve disputes arising from the interpretation, application or enforcement of specific terms of this agreement.
- (2) Encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances through the several supervisory levels where necessary.

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- (3) Resolve grievances as quickly as possible and correct, if possible, the causes of grievances thereby reducing the number of grievances and future similar disputes.

Section II. DEFINITION. For the purpose of this grievance procedure the following definitions shall apply:

- (1) Manager: The City Manager or his/her authorized representative.
- (2) Working Day: A calendar day, excluding Saturdays, Sundays and hard holidays as described by this agreement.
- (3) Department head or head of a department: The chief executive officer of a department.
- (4) Director of Human Resources: The Director of Human Resources or his/her authorized representative.
- (5) Employee: Any officer or regular (not temporary) employee of the City, except an elected official.
- (6) Employee representative: An individual who speaks on behalf of the employee.
- (7) Grievance: A complaint of an employee or group of employees arising out of the application or interpretation of a specific clause in this agreement.
- (8) Immediate supervisor: The individual who assigns, reviews, or directs the work of an employee.
- (9) Superior: The individual to whom an immediate supervisor reports.

Section III. REVIEWABLE AND NON-REVIEWABLE GRIEVANCES.

- (1) To be reviewable under this procedure a grievance must:
 - (a) Concern matters or incidents that have occurred in alleged violation of a specific clause in this agreement; and
 - (b) Specify the relief sought, which relief must be within the power of the City to grant in whole or in part.
- (2) A grievance is not reviewable under this procedure if it is a matter which:
 - (a) Is subject to those reserved City Management Rights as stipulated under Section 4 of the Employer-Employee Relations Policy for the City of Chula Vista or under management rights as specified in this agreement.
 - (b) Is reviewable under some other administrative procedure and/or rules of the Civil Service Commission such as:

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1. Applications for changes in title, job classification or salary.
 2. Appeals from formal disciplinary proceeding.
 3. Appeals arising out of Civil Service examinations.
 4. Appeals from work performance evaluations.
 5. Appeals that have Affirmative Action or civil rights remedy.
- (c) General complaints not directly related to specific clauses of this agreement.
 - (d) Would require the modification of a policy established by the City Council or by law.
 - (e) Relates to any City group insurance or retirement programs.

Section IV. GENERAL PROVISIONS OF THE GRIEVANCE PROCEDURE.

- (1) Grievances may be initiated only by the employee or employees concerned and may not be pursued without his/her or their consent.
- (2) Procedure for Presentation. In presenting his/her grievance, the employee shall follow the sequence and the procedure outlined in Section V.
- (3) Prompt Presentation. The employee shall discuss his/her grievance with his/her immediate supervisor within ten (10) working days after the act or omission of management causing the grievance, or within ten (10) working days of when the employee, with the exercise of reasonable diligence, should have discovered the act or omission being grieved.
- (4) Prescribed Form. The written grievance shall be submitted on a form prescribed by the Director of Human Resources for this purpose.
- (5) Statement of Grievance. The grievance shall contain a statement of:
 - (a) The specific situation, act or acts complained of as an agreement violation;
 - (b) The inequity or damage suffered by the employee; and
 - (c) The relief sought.
- (6) Employee Representative. The employee may choose someone to represent him/her at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time, unless he/she so desires.
- (7) Handled During Working Hours. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.

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- (8) Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
 - (9) Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall, whenever possible, be handled as a single grievance.
 - (10) Settlement. Any complaint shall be considered settled without prejudice at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed period of time.
 - (11) Reprisal. The grievance procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor, superior or department head, provided he/she observes the provisions of this grievance procedure.
 - (12) Back pay. The resolution of a grievance shall not include provisions for back pay retroactive further than twenty (20) working days prior to the date the grievance is filed. However, if with the exercise of reasonable diligence the act or omission being grieved was not discovered within 10 working days of its occurrence, and the grievance is subsequently timely filed pursuant to Section IV (3), then the resolution of the grievance may include provision for back pay for a maximum period of one year from the date the grievance was filed.

Section V. GRIEVANCE PROCEDURE STEPS. The following procedure shall be followed by an employee submitting a grievance pursuant to policy:

- Step 1 Discussion with Supervisor. The employee shall discuss his/her grievance with his/her immediate supervisor informally. Within three (3) working days, the supervisor shall give his/her decision to the employee orally.
- Step 2 Written Grievance to Superior. If the employee and supervisor cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within the three (3) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her supervisor who shall endorse his/her comments thereon and present it to his/her superior within seven (7) working days. The superior shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.
- Step 3 Grievance to Department Head. If the employee and superior cannot reach an agreement as to a solution of the grievance or the employee has not received a written decision within the seven (7) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her department head. The department head shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.

Step 4 Grievance to Director and Manager. If the grievance is not settled at the department head level, it may be submitted by the Association Representative within twenty (20) working days to the Human Resources Director, who shall investigate and report his/her findings and recommendations to the City Manager within ten (10) working days. The City Manager shall provide his/her answer within ten (10) additional working days. The times indicated may be extended by mutual agreement. Any Employee grievance will be filed with the Association Representative at Step 4.

Following the submission of the City Manager's answer, and before going to Section VI, Advisory Arbitration, matters which are unresolved shall be discussed at a meeting between the parties during which all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation.

Section VI. ADVISORY ARBITRATION. Any dispute or grievance which has not been resolved by the Grievance Procedure may be submitted to advisory arbitration by the Association Representative or the City without the consent of the other party providing it is submitted within ten (10) working days, following its termination in the Grievance Procedure. The following advisory arbitration procedures shall be followed:

- (1) The requesting party will notify the other party in writing of the matter to be arbitrated and the contract provision(s) allegedly violated. Within five (5) working days of the receipt of this notice, the parties may agree upon an arbitrator, or panel of three arbitrators, trained in conducting grievance hearings.

If agreement on an arbitrator cannot be reached, the State Department of Industrial Relations shall be requested by either or both parties to provide a list of five arbitrators. Both the City and the Association shall have the right to strike two names from the list. The party requesting the arbitration shall strike the first name; the other party shall then strike one name. The process will be repeated and the remaining person shall be the arbitrator.

- (2) The arbitrator shall hear the case within twenty (20) working days after the arbitrator has been selected. The arbitrator may make a written report of their findings to the Association and the City within **fifteen** (15) working days after the hearing is concluded. The arbitrator shall make rules of procedure. The decision of the arbitrator shall be advisory to the City Manager who shall render a final decision within ten (10) working days.

The arbitrator shall have no authority to amend, alter or modify this agreement or its terms and shall limit recommendations solely to the interpretation and application of this agreement. The above time limits of this provision may be extended by mutual agreement.

- (3) Each grievance or dispute will be submitted to a separately convened arbitration proceeding except when the City and the Association mutually agree to have more than one grievance or dispute submitted to the same arbitrator.
- (4) The City and the Association shall share the expense of arbitrators and witnesses and shall share equally any other expenses, including those of a stenographer, if required by either party. If either party elects not to follow the advisory decision rendered by the arbitrator, that

party shall pay the entire cost of the arbitration process, including the expense of the arbitrator, witnesses and/or stenographer.

3.09 GENERAL PROVISIONS

- I. For the purpose of this MOU, the "Fire Chief" shall mean the chief executive officer of the Fire Department or his/her authorized representative.
- II. For represented employees who were employed by the Montgomery Fire Protection District at the time the area served by the District was annexed to the City, their seniority rights shall begin with their individual hiring dates with the District and all continuous service with the District shall be deemed to be continuous service with the City.
- III. For the purposes of vacation, holidays, sick leave, standby, and differential pay, all represented employees assigned to a 40-hour work week (including a temporary modified duty assignment) shall be eligible for the same benefits under the same terms as employees assigned to the Fire Prevention or Training Divisions with a 40-hour work week.
- IV. The parties recognize that the City must comply with the statutory provisions of the Americans With Disabilities Act (ADA). The ADA requires accommodations for individuals protected under the Act, and these accommodations must be determined on an individual, case-by-case basis. The parties agree that, in order to comply with the provisions of the ADA, the City may need to make exceptions to this MOU and/or to an existing policy, practice or procedure of the City relating to the terms and conditions of employment not covered by this MOU. The parties agree that the City has the right to make such exceptions on an individual case-by-case basis, in order for the City to accomplish reasonable accommodation to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

Local 2180 recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The City will notify Local 2180 of these proposed accommodations prior to implementation by the City if the accommodations require the City to make an exception to this MOU; the City will not, however, share medical records or violate the privacy rights of the individual with a disability.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice, such as in the grievance procedure.

4.01 TERM AND EFFECT OF MEMORANDUM OF UNDERSTANDING

- I. This Memorandum of Understanding shall remain in full force and effect commencing July 1, 1998 through June 30, 2005 (or the date closest to July 1 that is the end of a pay period), and it is understood and agreed that the terms, conditions, wages and all provisions of this Memorandum of Understanding shall continue in effect until a new Memorandum of Understanding is negotiated and subsequently ratified by Local 2180 and the City Council or until this MOU is superseded in accordance with Section 14.C. of the Employer-Employee Relations Policy. Said terms and conditions as outlined in this Memorandum of Understanding shall remain in effect, unless otherwise noted, from July 1, 1998 (or the date closest to July 1 that is the beginning of a pay period) until the first pay period in July 2005, unless one of the parties notifies the other in writing no later than March 1, 2005 of its desires to modify or terminate the agreement and provides written proposals for such modifications no later than April 15, 2005. (Revised FY 98/03)
- II. This MOU fully and completely incorporates the understandings of the parties hereto for the full term of this agreement, constituting the sole and entire understanding between the parties. It is further understood, however, that nothing herein prohibits the parties from changing and amending the terms of this MOU during the period of its effectiveness by further consultations or meet and confer sessions by mutual agreement. For example, matters subject to Meyers-Milias-Brown which are not covered in the MOU, may be acted upon by City unilaterally after meeting and conferring on such matters. Nothing contained herein shall *affect rights* and privileges of parties as established by the laws of the State of California, as contained in the California Government Code under those provisions known as the Meyers-Milias-Brown Act, unless specifically referred to herein.
- III. The provisions of this Memorandum of Understanding shall be subject to Federal, State and local law.
- IV. If at any time during the term of this Memorandum of Understanding, through causes beyond the control of the City, the City does not receive a substantial amount of anticipated budgeted revenues or is required to make substantial unanticipated expenditures, then, in such event, the City may, with mutual agreement of Local 2180, reopen this Memorandum of Understanding and meet and confer on employment benefits. This section, however, in no way affects the existing right of the City to lay off employees.

4.02 SAVINGS CLAUSE

If any article or section of this Memorandum of Understanding should be held invalid by operation of law or by a final judgment of any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Memorandum of Understanding shall not be affected thereby.

In the event of the invalidation of any article or section, the City and Local 2180 agree to meet within sixty (60) days after the expiration of any administrative or judicial appeal period/process for the purpose of meeting and conferring over said invalidated section or article.

